



Entered on Docket
February 14, 2007

Hon. Linda B. Riegle
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

Case Nos. BK-S-06-10725 LBR
Case Nos. BK-S-06-10726 LBR
Case Nos. BK-S-06-10727 LBR
Case Nos. BK-S-06-10728 LBR
Case Nos. BK-S-06-10729 LBR

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

Chapter 11

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
Debtor.

Jointly Administered Under
Case No. BK-S-06-10725 LBR

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC,
Debtor.

**ORDER GRANTING MOTION FOR
AN ORDER ENFORCING THE
AUTOMATIC STAY TO PREVENT
FORECLOSURE BY WESTERN
UNITED LIFE ASSURANCE
COMPANY**

In re:
USA SECURITIES, LLC,
Debtor.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☒ USA Capital Diversified Trust Deed Fund, LLC
- ☒ USA Capital First Trust Deed Fund, LLC

Date: January 31, 2007
Time: 9:30 a.m.

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On January 31, 2007, the Court conducted a hearing on the *Motion for an Order Enforcing the Automatic Stay to Prevent Foreclosure by Western United Life Assurance Company* (the “Motion”) filed January 25, 2007 by debtors USA Commercial Mortgage Company (“USACM”), USA Capital Diversified Trust Deed Fun, LLC (“DTDF”), and USA Capital First Trust Deed Fund, LLC (“FTDF”) (collectively, the “Debtors”) (docket no. 2555). Appearances of counsel were noted on the record at the hearing.

Having considered the Motion, the joinders in the Motion filed by the Official Committee of Unsecured Creditors of USACM (docket no. 2580) and the Official Committee of Equity Security Holders of FTDF (docket no. 2597), the opposition to the Motion filed January 29, 2007 by Western United Life Assurance Company and Cross Development / Montgomery, L.P. (collectively, “WULA”) (docket no. 2607), and the arguments of counsel, the Court made its findings and conclusions on the record at the conclusion of the hearing, and it is hereby

ORDERED that the Motion is granted; and it is further

ORDERED that the respective interests of FTDF and DTDF in the “West Hills Park Note” (as defined in the Motion), and the junior lien interests in the “Montgomery County Property” (as defined in the Motion to include “a 99,352 square foot, four-story office building and a 38,142 square foot, two-story underground bunker located on approximately 50 acres of land outside of Montgomery, Texas”) that secure the West Hills Park Note, are property of the respective bankruptcy estates of FTDF and DTDF as defined by Section 541 of the Bankruptcy Code and that, accordingly, any foreclosure of WULA’s first lien on the Montgomery County Property would constitute an act to obtain possession of or exercise control over property of the said estates

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1 and thus a violation of the automatic stay of Section 362(a) of the Bankruptcy Code for as long as
2 such stay remains in effect.

3 Submitted by:
4 SCHWARTZER & MCPHERSON LAW FIRM and
5 RAY QUINNEY & NEBEKER P.C.

Approved / Disapproved as to form by:
KOLESAR & LEATHAM, CHTD. and
FULBRIGHT & JAWORSKI L.L.P.

6 By: /s/ Jeanette E. McPherson
7 JEANETTE E. MCPHERSON, ESQ.
8 ANNETTE W. JARVIS, ESQ.
9 *Attorneys for Debtors and Debtors-in-*
10 *Possession*

By: /s/ Michael Anglin
NILE LEATHAM, ESQ.
MICHAEL ANGLIN, ESQ.
Attorneys for Western United Life Assurance
Company

11 Approved/Disapproved by:
12 LEWIS AND ROCA, LLP

Approved / Disapproved by:
OFFICE OF THE U.S. TRUSTEE

13 By: /s/ Rob Charles
14 ROB CHARLES, ESQ.
15 *Counsel for the Official Committee of*
16 *Unsecured Creditors of USA Commercial*
17 *Mortgage Company*

By: /s/ August B. Landis
AUGUST B. LANDIS, ESQ.

18 Approved/Disapproved by:
19 ORRICK, HERRINGTON & SUTCLIFFE LLP
20 and BECKLEY SINGLETON, CHTD.

Approved/Disapproved by:
GORDON & SILVER, LTD.

21 By: _____
22 MARC A. LEVINSON, ESQ.
23 ANNE M. LORADITCH, ESQ.
24 *Counsel for the Official Committee of*
25 *Equity Security Holders of USA Capital*
26 *Diversified Trust Deed Fund, LLC*

By: /s/ Gregoary E. Garman
GREGORY E. GARMAN, ESQ.
Counsel for the Official Committee of
Holders of Executory Contract Rights of
USA Commercial Mortgage Company

27 Approved/Disapproved by:
28 STUTMAN TREISTER & GLATT, P.C. and
SHEA & CARLYON, LTD.

By: /s/ Candace Carlyon
EVE KARASIK, ESQ.
CANDACE C. CARLYON, ESQ.
Counsel for the Official Committee of
Equity Security Holders of USA Capital
First Trust Deed Fund LLC

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2 In accordance with LR 9021, counsel submitting this document certifies as follows
3 (check one):

4 ___ The court has waived the requirement of approval under LR 9021.

5 ___ No parties appeared or filed written objections, and there is no trustee appointed
6 in the case.

7 X I have delivered a copy of this proposed order to all counsel who appeared at
8 the hearing, any unrepresented parties who appeared at the hearing, and any trustee
9 appointed in this case, and each has approved or disapproved the order, or failed to
10 respond, as indicated below [list each party and whether the party has approved,
11 disapproved, or failed to respond to the document]:

12 Failed to Respond: ORRICK, HERRINGTON & SUTCLIFFE LLP and BECKLEY
13 SINGLETON, CHTD.

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